

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: CINDY M. BAKER
ARKANSAS BAR ID No. 2000022
CPC DOCKET NO. 2010-001

FILED

JUN 15 2010

LESLIE W. STEEN
CLERK

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee from a referral from the Arkansas Supreme Court in the case of *Donald Thompson v. State of Arkansas*, Arkansas Supreme Court Case No. 2009-249.

Cindy M. Baker, Attorney at Law, Berryville, Arkansas, represented Donald Thompson in an appeal from a Judgment and Commitment Order dated July 28, 2008. On June 4, 2009, the Arkansas Supreme Court issued a briefing schedule to Ms. Baker. A brief on behalf of her client was due to be filed on or before July 14, 2009. Ms. Baker asked for, and was granted, five requests for extension of time. The final request made her brief due to be filed on or before September 9, 2009. No brief was filed. On September 30, 2009, the State of Arkansas filed a Motion to Dismiss the appeal. No response to the Motion to Dismiss was filed by Ms. Baker. On November 4, 2009, the Arkansas Supreme Court granted the State's Motion to Dismiss.

Rule 1 of the Rules of Appellate Procedure--Criminal, provides that any person convicted of a misdemeanor or felony by virtue of trial in any circuit court of this state has the right to appeal to the Arkansas Court of Appeals or to the Supreme Court of Arkansas. Rule 16(a) of the Arkansas Rules of Criminal Procedure--Criminal, provides that trial counsel, whether retained or court-appointed, shall continue to represent a convicted defendant throughout any appeal to the Arkansas Supreme Court or Arkansas Court of Appeals, unless permitted by the trial court or the

appellate court to withdraw in the interest of justice or for other sufficient cause.

Ms. Baker was served with the Formal Complaint and filed a timely Response. In her response, Ms. Baker stated that she did not pursue briefing on Mr. Thompson's appeal because he asked her not to proceed. Mr. Thompson had been released from the Arkansas Department of Correction by the time the brief was due and, if he were successful on appeal and the case were reversed, he ran the risk of serving more time in prison following retrial. Ms. Baker stated that Mr. Thompson was willing to sign an affidavit to confirm but she had not been able to locate him. No affidavit from Mr. Thompson was provided. Ms. Baker denied that her conduct violated the Arkansas Rules of Professional Conduct.

Upon consideration of the formal complaint and attached exhibit materials, the response, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Cindy M. Baker violated Rule 1.3 when she failed to file an appeal brief on behalf of her client, Donald Thompson, within the time granted to her by the Arkansas Supreme Court. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Cindy M. Baker violated Rule 3.4(c) when she failed to file an appeal brief on behalf of her client, Donald Thompson, which violated Rule 16(a) of the Arkansas Rules of Appellate Procedure—Criminal, as she effectively abandoned the representation of her client. Rule 3.4(c) requires, in part, that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

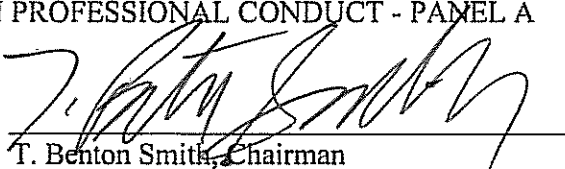
3. Cindy M. Baker violated Rule 8.4(d) when her failure to file a timely appeal brief on behalf of her client, Donald Thompson, resulted in a delay in the orderly and

timely resolution of appellate proceedings and when her failure to file a timely appeal brief on behalf of her client, Donald Thompson, resulted in the dismissal of her client's right to appeal as provided by Rule 1 of the Rules of Appellate Procedure—Criminal. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that CINDY M. BAKER, Arkansas Bar No. 2000022, be, and hereby is, REPRIMANDED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for her conduct in this matter. All fines and costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By:


T. Benton Smith, Chairman

Date: MARCH 30, 2010